

August 2004

Update: Criminal Procedure Monograph 7—Probation Revocation (Revised Edition)

Part A—Commentary

7.35 Granting Credit for Time Served

Add the following text to the January 2004 update to page 32:

After the Court’s opinion in *People v Seiders (Seiders I)*, 259 Mich App 538 (2003), discussed above, the Court of Appeals convened a conflict resolution panel and concluded that *Johnson, supra*—the case by which the *Seiders I* panel was bound—was wrongly decided. *People v Seiders (Seiders II)*, ___ Mich App ___, ___ (2004). The conflict resolution panel in *Seiders II* agreed with the previous panel’s analysis of the applicable statutory language and affirmed the trial court’s refusal to credit the defendant’s sentence with time served as a parole detainee on a sentence he received in a foreign jurisdiction. *Seiders II, supra*, ___ Mich App at ___.

According to the *Seiders II* Court:

“A defendant is only entitled to a sentencing credit under MCL 769.11b if he has been ‘denied or unable to furnish bond.’” MCL 769.11b (emphasis added). As the *Seiders [I]* Court noted, bond is neither set nor denied when a defendant is held in jail on a parole detainer. Apparently, the *Johnson* Court did not consider the fact that the defendant was incarcerated due to a parole detainer. Because defendant was held on a parole detainer, the question of bond is not an issue, and MCL 769.11b does not apply. *Seiders [I], supra* at 541.” *Seiders II, supra*, ___ Mich App at ___.